HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting.)

(Chapter VIII Rule 32 (2) (b)

Description of the case

W.P. No. 1324 of 2003 (S/S)
Old No. 2913 of 1997
Kedar Singh Mehra

Vs.

State of U.P. & others.

Approved for reporting

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~~Not approved for reporting~~

Date of decision 07.04.2004

Initial of Judge

HIGH COURT OF UTTARNCHAL AT NAINIAL
(Old No. 2913 of 1997)
Writ Petition No. 1324 (S/S) of 2003

Kedar Singh Mehra
S/o Shri Chatur Singh Mehra,
R/o Nanoli Post Office, Bhoj Tola,
District Almora, ……Petitioner

Vs.

State of Uttar Pradesh and others. ……Respondents

Counsel for the petitioner Sh. Nandan Arya
Standing counsel for the respondent.

Dated:-7-4-2004

Hon'ble Rajesh Tandon, J.

Heard Sh. Nandan Arya learned counsel for the petitioner and standing counsel for the respondents.

By the present writ petition the petitioner has prayed for the issue of a writ, order or direction in the nature of mandamus commanding the opposite parties to make payment of salary to the petitioner on the revised pay scale of Rs. 1350-2200w.e.f 1-1-1986 on the basis of Govt. order dt. 27-7-1993 and letter dt. 8-12-93, as contained in annexure NO. 4 to the writ petition and further continue to pay salary to the petitioner on the revised pay scale without any hindrance. The petitioner has further prayed for making the payment of the arrears of salary since 1-1-1986.

Brief facts giving rise to the present writ petition are that the petition is directed against the discrimination and disparity, prevailed between the pay scale of Electrician under the Director General, medical and Health Services, working and posted in Pariwahan

Technical Organization Unit and the electrician, posted in B.D. Pandey (Male) District Hospital, Nainital under the Head of the Department. The petitioner is functioning as Electrician in B.D.Pandey (Male) District Hospital Nainital Govt. Hospital, Nainital and is getting lower pay scale of Rs. 950-1500, while the Electricians, posted ad functioning in pariwhan Technical Unit of Medical and director General of Medical and Health Service are being paid revise pay scale w.e.f. 1-1-1986 in the pay scale of Rs. 1350-2200 on the basis of recommendation of Sama Samiti, 1989 and thereafter vide Govt. order No. 2282-Section -5/P.A.W.CH-931-21/89 dt. 27-7-1993. They have already drawn three arrears of salary w.e.f. 1-1-1986. In this way, the petitioner is being discriminated in comparison to his counterpart Electricians, posted in Pariwahan Technical Unit under the same Head of Department of the U.P. Govt.

Counsel for the petitioner has submitted that on the principle held by the Apex Court with regard to ***"Equal Pay Fro Equal Work,"*** the petitioner is entitled for the pay scale at par with Pariwhan Technical Hospital unit of Electrical and Director General of Medical and Health Service.

The petitioner has submitted that he has qualified three years diploma in Electrical Engineering and initially appointed on the post of Generator Operator/Electrician in the month of March 1989.

The petitioner has submitted that he pay scale and grade of Electricians under the Director General, Medical and Health Services in Pariwahan Technical Hospital Units were the same and equal i.e. 354-550(354-10-424-EB-10-454-12-514-E.B-12-550) and there was no difference at all in the pay scale of Electricians, working in B.D. Pandey (Male) District Hospital, Nainital and the Electricians under Director General, Medical and Health in Pariwahan Technical

Unit. The appointing authority of both the posts of Electricians, in Pariwahan Unit and Hospital Unit is Chief Superintendent, who is of the rank of Joint Director while posted in the Directorate and they have equal qualifications, who are having same qualification alike the petitioner, but posted outside Hospitals, are getting the revised pay scale. The pay scale of Pariwhan Unit Electricians was revised w.e.f. 1-1-86 vide Gove. Order dt. 27-7-93 revising pay scale w.e.f. the retrospective date 1-1-86.

So far as equal pay for equal work is concerned. It has been observed in the State of Haryana and others Vs. Jasmer Singh and others 1997(75) FLR 776 (SC) that the principle of equal pay for equal work is not always easy to apply. There are inherent difficulties in comparing and evaluating work done by different persons in different persons in different organizations or even in the same organization.

In view of the above, the writ petition is disposed of finally directing the respondents to consider the question of payment of revised pay scale in the light of the observations made above.

Liberty is given to the petitioner to prefer a representation within a period of 3 weeks from obtaining of the certified copy of the order giving the entire set of facts which shall be decided within a period of 3 months by a speaking order.

The writ petition is disposed of. There will be no order as to costs.

(Rajesh Tandon, J.)

Dated: - 7-4-2004

M.K.